

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

SEFIDKAR JANALI #12202-078

PLAINTIFF

VS.

CIVIL ACTION NO. 5:11-cv-119(DCB)(JMR)

CORRECTIONS CORPORATION OF  
AMERICA, VANCE LAUGHLIN, JON  
SHONEBARGER, and VICTOR ORSOLITS

DEFENDANTS

ORDER

This cause is before the Court on the Report and Recommendation of Chief Magistrate Judge John M. Roper (**docket entry 33**), the plaintiff's response thereto (**docket entry 35**), and the defendants' motion for summary judgment (**docket entry 11**). Having carefully considered the recommendations of the magistrate judge, the response, and the applicable law, the Court finds as follows:

Sefidkar Janali, an inmate currently incarcerated at the Adams County Correctional Facility in Adams County, Mississippi ("ACCF"), filed this pro se lawsuit alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. Specifically, he claims that his First Amendment rights to free exercise of his religion and his Fifth Amendment rights to equal protection under the law were violated.

The defendants filed a motion for summary judgment on the plaintiff's claims that (1) he is not allowed to attend a service specifically for his Muslim sect, and (2) he is not allowed a diet

that complies with Islamic dietary laws. In response to the defendants' motion, the plaintiff asserts that the defendants have not sufficiently shown a legal justification for infringement of his right to religious exercise. Following the plaintiff's response, the defendants moved for additional time to file a rebuttal. In response to this motion, the plaintiff objected that neither the plaintiff nor the defendants had conducted any discovery in this case. In their rebuttal, the defendants sought leave to conduct discovery with regard to the plaintiff's claims pursuant to the Religious Land Use and Institutionalized Persons Act ("RLUIPA") if the Court finds that these claims are properly before it.

The plaintiff then propounded discovery requests on the defendants, including interrogatories, requests for production, and requests for admissions. The defendants served responses to the discovery requests, and the plaintiff filed a motion to compel (docket entry 28), asserting that the discovery responses were not complete. The defendants responded, asserting that the plaintiff had failed to show how the requested discovery relates to a claim or defense in this case. In rebuttal, the plaintiff argued that the discovery sought is relevant to the issue of whether ACCF is bound by Bureau of Prisons Program Statements.

The Report and Recommendation concludes that the plaintiff has not presented any evidence which creates a genuine issue of

material fact with regard to the defendants' liability for a violation of the plaintiff's constitutional rights, and that the defendants' motion for summary judgment should be granted. The Report and Recommendation recommends that the plaintiff's motion to compel be denied as moot.

The Court finds that the outstanding procedural and discovery issues should be addressed before a ruling on the defendants' motion for summary judgment. Specifically, there should be a ruling on whether the plaintiff's RLUIPA claims are properly before the Court and, if not, whether the plaintiff should be allowed to amend his complaint to bring such claims. Additionally, there should be a ruling on whether to allow discovery regarding any RLUIPA claims as requested by the defendants, as well as a ruling on the plaintiff's motion to compel and any other outstanding discovery issues. Considering the posture of this case, the Court finds that the defendants' motion for summary judgment should be dismissed without prejudice so that the defendants may renew their motion at the proper time.

The plaintiff's response to the Report and Recommendation is a motion seeking additional time to file objections to the Report and Recommendation. In light of the Court's ruling, the plaintiff's request is moot.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of

Chief Magistrate Judge John M. Roper (**docket entry 33**) is not adopted for the reasons herein stated;

FURTHER ORDERED that the defendants' motion for summary judgment (**docket entry 11**) is dismissed without prejudice;

FURTHER ORDERED that the plaintiff's motion for extension of time to file objections to the Report and Recommendation (**docket entry 35**) is moot.

SO ORDERED, this the 25th day of September, 2012.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE